



Eliot Spitzer  
Governor

STATE OF NEW YORK  
State Capitol P.O. Box 2062  
Albany, NY 12220-0062

Dr. Melodie Mayberry-Stewart  
Chief Information Officer and  
Director of Office for Technology

January 2, 2008

Mr. David Furth  
Associate Bureau Chief  
Public Safety and Homeland Security Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: WT Docket 02-55  
Extension of Time to Complete Testing**

Dear Mr. Furth:

On June 15, 2007, the New York State Chief Information Office/Office for Technology (CIO/OFT) executed a Frequency Reconfiguration Agreement ("FRA") with Sprint-Nextel that included the release date for the Sprint-Nextel 1-120 channels needed for the "Metro 21" implementation in New York City. Our agreement included a 150-day period for the roll out and testing of our new OpenSky system on the 800 MHz 1-120 channels, while we continued to operate our existing network on our "old" NPSPAC channels at 866-869 MHz. In accordance with our agreement, the ten (10) channels we required were made available to us on September 4, 2007. Five (5) of the channels are currently installed and operational on the National Mutual Aid Channels. The other five (5) channels are used in the OpenSky system, which is undergoing testing.

While undertaking the reconfiguration of this system in New York City, we were concurrently conducting coverage and performance tests of the system in our Primary Region Build-out (PRB) area, consisting of the counties of Chautauqua and Erie. During testing in the PRB, we encountered a variety of issues. The presence of these outside factors and their impact on system performance has caused great concern among the public safety users participating in the testing.

The CIO/OFT and participating state agencies are currently testing signal coverage of the new 800 MHz system, and user agency acceptance testing will continue into January 2008, following the holiday period. The public safety users who participated in the PRB tests also raised concerns for the potential for similar issues in the New York City area. Consequently, additional time has been, and continues to be, spent investigating outside factors in this system and these unanticipated problems have resulted in our need for the additional time.

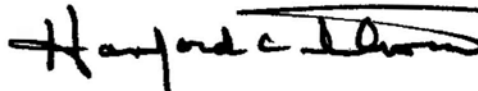
January 2, 2008

The current FRA between the State of New York and Sprint-Nextel, however, obligates the State of New York to be off of its current or "old" NPSPAC channels by February 1, 2008. Accordingly, the State has requested an extension of time, not to exceed 90 days, in order to safely migrate the state agencies from their legacy system to the new Statewide Wireless Network (SWN), to allow for training, programming and other logistical tasks. All efforts have been and will continue to be, focused on completing this migration in the minimal amount of time in accordance with this new deadline.

Sprint-Nextel has correctly noted that many public safety agencies in the New York metropolitan area also rely on Sprint-Nextel's IDEN communications network in their day-to-day operations, which makes the coordination of frequencies during the reconfiguration process necessary to ensure that all agencies continue to enjoy robust communications capabilities. Based on the extensive discussion at the TA-sponsored New York regional planning meeting that we attended, it is clear that all parties are dedicated to the completion of the reconfiguration in a timely but prudent manner. We also understand that Sprint-Nextel has worked closely with the New York area licensees to coordinate their reconfiguration based on the individual licensee's requirements, and part of this coordination involves giving up and getting back channels on agreed-upon dates. Further, we understand that consenting to a 90-day extension for our reconfiguration will impact Sprint-Nextel's amount of available spectrum capacity and the services they provide to their subscribers, including public safety.

As such, the CIO/OFT supports a coordinated retune process and believes that Sprint-Nextel should not be removed from its frequencies until a public safety agency is ready to use them. Sprint-Nextel should be permitted to automatically remain on its channels past June 2008 if licensees have not indicated their need for those channels to complete their retune by that date. This would allow Sprint-Nextel and public safety the flexibility to prudently complete rebanding with minimal disruption for all parties.

Sincerely,



Hanford C. Thomas  
Project Director  
Statewide Wireless Network